

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Terry Alan McClure,)	C/A No.: 3:07-2408-GRA-JRM
)	
Plaintiff,)	
)	
v.)	ORDER
)	(Written Opinion)
J. Al Cannon;)	
Mitch Lucas;)	
Capt. Beatty;)	
Capt. Smith;)	
Lt. Gallant;)	
Sgt. Deckner;)	
Sgt. Smalls; and)	
Tact. Ofc. Torres)	
)	
Defendants.)	
)	

This matter comes before the Court to review Magistrate Judge McCrorey's Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 73.02(B)(2)(d), filed on December 11, 2008. For the reasons stated herein, this Court adopts the magistrate's Report and Recommendation in its entirety.

Procedural History

Plaintiff originally filed this *pro se* action pursuant to 42 U.S.C. § 1983. Defendants filed a motion for summary judgement on October 7, 2008. The court issued an order pursuant to *Roseboro v. Garrison*, 428 F.2d 309 (4th Cir. 1975), advising the plaintiff of the dismissal procedure and warning him of the consequences if he did not respond to the motion. The Plaintiff failed to respond. On November 24, 2008, the magistrate filed an additional order requiring the

plaintiff to answer the defendant's motion within 15 days. The magistrate now recommends the defendant's motion to dismiss be granted for lack of prosecution. Neither party filed objections to the Report and Recommendation.

Standard of Review

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leake*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Neither party has made objections to the magistrate's Report and Recommendation.

Conclusion

After a thorough review of the record, magistrate's Report and Recommendation, and the relevant case law, this Court finds that the magistrate applied sound legal principles to the facts of this case. Therefore, this Court adopts the magistrate's Recommendation in its entirety.

IT IS THEREFORE SO ORDERED THAT the defendants' Motion to dismiss be GRANTED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina
January 14, 2009

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Plaintiff has the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate

Procedure, **will waive the right to appeal.**